

**VIRGINIA BOARD OF MEDICINE
EXECUTIVE COMMITTEE MINUTES**

Friday, April 1, 2011

Department of Health Professions

Richmond, VA

CALL TO ORDER: The meeting convened at 8:51 a.m.

MEMBERS PRESENT: Karen Ransone, MD, President
Claudette Dalton, MD, Vice-President
Stuart Mackler, MD, Secretary-Treasurer
Sandra Bell, MD
Stephen Heretick, JD
Roderick Mathews, JD
Jane Piness, MD

MEMBERS ABSENT: Wayne Reynolds, DO

STAFF PRESENT: William L. Harp, MD, Executive Director
Jennifer Deschenes, Deputy Executive Director for Discipline
Barbara Matusiak, MD, Medical Review Coordinator
Colanithia Morton Opher, Operations Manager
Amy Marschean, Assistant Attorney General

OTHERS PRESENT: W. Scott Johnson, HDJN
Beth Meixner, Chair, Advisory Board on Radiologic Technology
Elizabeth Carter, PhD, Executive Director for the Board of
Health Professions
Neal Kauder, Visual Research, Inc.

ROLL CALL A quorum of seven was declared.

Emergency Egress Procedures

Dr. Ransone read the emergency egress procedures.

Adoption of Agenda

Dr. Bell moved to adopt the agenda as presented. The motion was seconded and carried unanimously.

Public Comment on Agenda Items

There was no public comment on agenda items.

Approval of the April 30, 2010 Minutes

Dr. Mackler moved to accept the minutes of April 30, 2010. The motion was seconded and carried unanimously.

Report of the Agency Director

In Dr. Reynolds-Cane's absence, Dr. Harp gave a brief update on the progress of the Lyme Disease Task Force, for which Dr. Ransone has been asked to serve as a consultant. He advised that Dr. Reynolds-Cane has informed the Task Force that the Board of Medicine has never taken action against a practitioner simply for a Lyme disease issue. Additionally, it was pointed out that Dr. Reynolds-Cane will recommend to the Task Force that Lyme disease research be supported. The development of CME for practitioners is in progress and will be available in the near future.

Report of the President – Karen Ransone, MD

Dr. Ransone advised that she will be attending the Federation of State Medical Boards' Annual meeting on April 29 in Seattle, Washington. Dr. Harp, Mr. Heretick, and possibly Dr. Reynolds will be in attendance as well.

Regretfully, Dr. Dalton has removed herself from the ballot for FSMB's Board of Directors. Dr. Dalton expressed her appreciation for all the support and encouraging words from the Board members.

Report of the Executive Director – William Harp, MD

Revenue and Expenditures Report

Dr. Harp advised the Committee of the current cash balance, noting that the Board is well within budget as usual. He mentioned that this fiscal year, the Board has expended more funds on attorney fees and expert witness services.

Dr. Harp encouraged the members to be good shepherds of the Board's resources by making determinations in standard of care cases at the probable cause review level whenever possible.

Case Statistics

Dr. Harp briefly reviewed the case statistics for FY2011, quarter ending December 31, 2010.

Health Practitioners' Monitoring Program

This report was provided for informational purposes only. There are currently 116 Board of Medicine licensees in the monitoring program.

Office-Based Surgery Items

Dr. Harp referred to the article from the Richmond Times Dispatch on February 18, 2011 regarding the Board's ongoing discussion of office-based surgical procedures. He stated that the article captured a good deal of the comments at the Board meeting, but noted that the Boards' action did not make everyone happy. Dr. Harp then asked the Committee to turn its attention to the e-mail from Enrique Silberblatt, MD, a plastic surgeon in Roanoke. Dr. Harp said that no response had been sent to Dr. Silberblatt's message. The Committee did not feel that a response to the e-mail was necessary.

Dr. Harp said that reconsideration of the composition of the Ad Hoc is underway to ensure balance and inclusiveness of stakeholders in the office-based surgery issue.

Dr. Dalton expressed some concern that the Board would appear inconsistent by allowing licensees to practice outside their specialty with short course training while concomitantly trying to firm up requirements for licensees to demonstrate their continued competency.

Dr. Harp said that this is the single most important issue that has been before the Board during his tenure. It encompasses elements of initial licensure, continuing competence, specialty licensure, the definition of patient harm, informed consent, patient empowerment and patient choice, to name just a few.

No date has been set for the next meeting of the Ad Hoc Committee on Office-Based Surgery.

FSMB Maintenance of Licensure Pilot Project

Dr. Harp informed the Committee that FSMB is offering the Board an opportunity to participate in a Maintenance of Licensure Pilot Implementation Project. Dr. Harp suggested that the Board consider showing its interest in participating if for no other reason than to learn more details about the project.

Dr. Dalton said that the issue evolving nationally is performance CME. It is very costly for a provider of CME to produce, especially those that may be in rural areas. She suggested that this topic be an agenda item for the Ad Hoc Committee on Competency on May 24, 2011.

The Executive Committee agreed.

FSMB Foundation SAVE (Violence Survey)

Dr. Harp informed the Committee of the Foundation's request for comments and feedback on its report entitled, "Prevalence of Violence against State Boards and Current Future Levels of Security". He noted that Virginia was one of 22 boards to respond, and of those responding over 77% reported some form of threat against Board members and or Board staff.

Dr. Harp and Ms. Deschenes addressed the Committee's inquires regarding the level of security for hearings conducted onsite. They confirmed that extra security has been contracted based on case-specific concerns and precautionary warnings. The current level of vigilance and security will continue with analysis and prioritization of potential threat based upon all relevant information.

Mr. Heretick stated that whatever security measures are put into place, they should not be budget dependent from year to year.

Public Citizen Report

Dr. Harp advised the Committee that last month Public Citizen published an article that stated boards of medicine were not taking action against practitioners that had actions taken against them by hospitals. This conclusion was based upon the comparison of NPDB reports and state board of medicine data. Virginia was in the top 10 of the boards that had taken action in such circumstances, doing so with 54% of the practitioners with actions reported by hospitals. It was pointed out that the Board's actions may have been taken for reasons different than those reported to NPDB by the hospitals.

Outside Presentations

Dr. Harp informed the members that he presented an overview of the Board of Medicine to the M-2's at EVMS in late February. This presentation was taped and will be available on the EVMS system for incoming house staff. There will be a presentation to the M-4's at MCV in May. Dr. Harp hopes these presentations at the medical student level have value and help lead to an early understanding of medical regulation and issues of professionalism. It was noted that all the medical schools were contacted in 2007 regarding integrating regular presentations into the curriculum. The presentations have continued on a request basis. Dr. Dalton volunteered to follow up with UVA regarding a set time in the curriculum for such presentations.

Report of the Office of the Attorney General

Ms. Marschean provided a verbal update on the legal matters involving Dr. Abofreka and Dr. Vuyyuru.

NEW BUSINESS

Assessing the Effectiveness of the Sanctioning Reference Points

After an informative PowerPoint presentation regarding his analysis of SRP worksheets from the last 5 years, Neal Kauder presented the Committee with the following recommended revisions to the existing SRP process/forms:

1. Combine Unlicensed Activity with Fraud Worksheet
2. Combine Inappropriate Relationship with Patient Care Worksheet
3. Remove "Notices" from Prior Record Scoring
4. Consider Changing Scoring Framework for Priority Level
5. Consider Occupational Therapy Assistants for SRPs
6. Consider Certified Midwives and Polysomnographers for SRPs
7. SRP Worksheets Not Used in Confidential Consent Agreements
8. Re-Train Staff and Board Members on SRP Use
9. Board to Consider Using SRPs at Formal Hearings

The Committee unanimously agreed to accept recommendations 1-8 and to strike recommendation #9.

Dr. Harp stated that the SRP approach might have value and provide guidance and uniformity in the licensure process, particularly for those applicants that appeared before the Credentials Committee. Mr. Kauder welcomed the opportunity to address this as a project.

Legislative Report from the 2011 Session of the General Assembly

Dr. Harp walked the Committee through Ms. Yeatts' DHP Report from the 2011 Session of the General Assembly.

Dr. Harp highlighted two bills:

HB2467/SB1062 - He noted that Governor McDonnell amended HB2467/SB1062 recommending the creation of a licensure requirement for Applied Behavior Analysts through the Board of Medicine to ensure that Virginia families who seek treatment for their autistic child receive quality care.

Dr. Carter commented that there are approximately 184 individuals in this profession with about 10 at the doctoral level. They are recognized by the American Psychological Association and they tend to work in teams rather than under the supervision of a practitioner. Dr. Carter advised that if passed, the Board of Health Professions will suggest that this profession be placed under the Board of Psychology.

SB771/HB1459 – Dr. Harp informed the Committee that Governor McDonnell McDonald had vetoed the malpractice legislation that would gradually increase the medical malpractice cap from the current \$2 million to \$3 million over the next 20 years.

This report was provided for informational purposes only.

Chart of Regulatory Actions

This chart was provided for informational purposes only.

Board Action on Final Regulations for Licensure of Radiologist Assistants

Dr. Harp led the Committee through the proposed regulations for licensure of radiologist assistants. After a brief discussion about the definition of a radiologist, the Committee concluded that the proposed definition was too restrictive and amended the language to say: “Radiologist” means a doctor of medicine or osteopathic medicine specialized by training and practice in radiology, ~~who is certified by the American board of Radiology, the American Osteopathic Board of Radiology, the British Royal College of Radiology or the Canadian College of Physicians and Surgeons.~~

Dr. Dalton moved to adopt the final amended regulations for licensure of radiologist assistants with the inclusion of the above change. The motion was seconded and carried unanimously.

Discipline Report

Ms. Deschenes provided a brief verbal update on the Board’s disciplinary issues.

Next scheduled meeting: August 5, 2011

Adjournment: With no other business to conduct, the meeting adjourned at 11:27 a.m.

Karen Ransone, M.D.
President

William L. Harp, M.D.
Executive Director

Colanthia Morton Opher
Operations Manager